

# EXHIBIT 9

----- Forwarded message -----

From: "Taylor, Dan"

<[dantaylor@kilpatricktownsend.com](mailto:dantaylor@kilpatricktownsend.com)<<mailto:dantaylor@kilpatricktownsend.com>>>

Date: Wed, Jan 3, 2018 at 5:49 PM -0500

Subject: PLD v. Bion --- Your 4:40 p.m. December 31, 2017 email.

To: "Jon Berkelhammer"

<[Jon.Berkelhammer@elliswinters.com](mailto:Jon.Berkelhammer@elliswinters.com)<<mailto:Jon.Berkelhammer@elliswinters.com>>>

Cc: "Boyles, Susan"

<[SBOYLES@kilpatricktownsend.com](mailto:SBOYLES@kilpatricktownsend.com)<<mailto:SBOYLES@kilpatricktownsend.com>>>

Jon,

When I saw your email and attachment on New Year's Eve, I was hopeful that you had followed my suggestion, had prevailed upon your client to comply with its contractual obligations, and were advising as to the particulars of immediate shipments PLD could expect. Obviously, I was disappointed.

I do take some issue with your recollection of our call. The only things I recall "stressing" are (1) that I looked forward to working with you, (2) that our clients would be well-served if your client would cause all product orders to be immediately filled and shipped and (3) that following confirmation of shipments, we could try to resolve any other issues between the parties expeditiously. The latter point is why I quickly provided you with the names of Alan Duncan, Jim Williams, Bill Davis and Jon Harkavy for an expedited mediation.

With regard to the obvious intent of your letter, I have reviewed the Dynamic 3D decision quite carefully, and I don't believe it has any relevance to any aspect of our clients' dispute. I was fascinated with your suggestion that somehow an attorney-client privilege traveled with an assigned contract. If you have any authority for that rather unique concept, I would welcome the opportunity to review it. It certainly is not part of the Dynamic 3D decision. Moreover, I don't think Rule 1.9 has any implication to our situation for other reasons as well. To the extent that you desire to explore the Rule 1.9 issue a bit closer to home, I suggest you review *Worley v. Moore*, which as decided by our Supreme Court on December 8th, a copy of which I have attached.

Jon, if you wish to fulfill the requirement of the local rules, either Susan or I can be available for a very short "meet and confer" at your convenience.

Dan

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